

Message Text

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INFO OCT-01 ISO-00 CIAE-00 CU-04 INR-07 NSAE-00 USIE-00

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INRE-00 DODE-00 PM-04 H-02 L-03 NSC-05 PA-02 PRS-01

SP-02 SS-15 EB-07 LOC-01 COME-00 HEW-06 SAL-01 OIC-02

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FM AMEMBASSY PARIS

TO SECSTATE WASHDC IMMEDIATE 2669

UNCLAS SECTION 01 OF 03 PARIS 19605

NESCO

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TAGS: UNESCO, OCON

SUBJECT: UNESCO CONFERENCE ON PROTECTION OF TRANSLATORS

REF: (A) PARIS 19367 (B) STATE 165508

1. U.S. DELEGATION APPRECIATED RAPID RESPONSE CONTAINED IN DEPARTMENT'S REFTEL B. HOWEVER, U.S. DELEGATION IS PUZZLED BY SOME OF THE RECOMMENDATIONS.

2. AS PARA 1 OF REFTEL A INDICATES, BOTH OF THE QUALIFYING PHRASES RECOMMENDED IN PARA 1 OF REFTEL B HAVE ALREADY BEEN INCORPORATED IN THE INTRODUCTORY LANGUAGE OF PARA 5 OF THE DRAFT RECOMMENDATION WHICH WILL BE SUBMITTED TO THE PLENARY SESSION OF THIS UNESCO CONFERENCE ON WEDNESDAY, JULY 7, 1976, I.E., "AS A GENERAL RULE, A CONTRACT GOVERNING RELATIONS BETWEEN A TRANSLATOR AND A USER, AS WELL AS WHERE
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APPROPRIATE ANY OTHER LEGAL INSTRUMENT GOVERNING SUCH

RELATIONS, SHOULD:". THUS, ANY CONTRACT SUBJECT TO THE RECOMMENDATIONS FOUND IN SUBPARAGRAPHS 5(D), 5(F), OR 5(G) WOULD BE QUALIFIED BY THE PHRASE "AS A GENERAL RULE" WHILE ANY OTHER LEGAL INSTRUMENT SUCH AS NATIONAL LEGISLATION DEALT WITH IN THESE PARAGRAPHS WOULD BE QUALIFIED BY THE "WHERE APPROPRIATE" LANGUAGE. HENCE, THE RECOMMENDATION FOUND IN PARA 1 OF REFTTEL B TO INSERT AGAIN "WHEN APPROPRIATE" OR "AS A GENERAL RULE" IN PARA 5(D) WOULD BE VIEWED BY THE PLENARY AS REDUNDANT AND UNNECESSARY.

3. ON THE ONE HAND, U.S. DELEGATION FEARS THAT DEPARTMENT IN THE HURRY OF A RAPID RESPONSE ON JULY 2 MAY HAVE OVERLOOKED THESE OPENING QUALIFYING PHRASES. ON THE OTHER HAND, U.S. DELEGATION IS CONCERNED THAT THESE OPENING QUALIFYING PHRASES MAY NOT BE STRONG ENOUGH TO SATISFY DEPARTMENT, THOUGH THEY ARE VIEWED AS SUFFICIENTLY CLEAR BY OTHER DELEGATIONS TO THIS CONFERENCE. IN VIEW OF THESE DOUBTS, U.S. DELEGATION HAS TAKEN THE FOLLOWING MEASURES TO REMOVE DOUBTS EXPRESSED IN REFTTEL B..

4. U.S. DELEGATION IS SPONSORING NEW SENTENCE SUGGESTED IN PARA 1 OF REFTTEL B, I.E., "SPECIFY THAT ONLY THOSE RIGHTS OR AUTHORIZATIONS EXPRESSLY MENTIONED OR OTHERWISE ARISING BY LAW FROM THE RELATIONSHIP BETWEEN TRANSLATOR AND USER HAVE BEEN GRANTED BY THE TRANSLATOR." U.S. DELEGATION HAS RECEIVED INFORMAL ASSURANCES FROM CHAIRMAN OF PLENARY, DR. DITTRICH OF AUSTRIA, AS WELL AS FROM DELEGATIONS OF USSR, CZECHOSLOVAKIA, AND OTHERS THAT THIS PROPOSAL WILL NOT BE OPPOSED. (UK DELEGATION, MR. I.J.G. DAVIS, HAS LEFT CONFERENCE TO RETURN TO NORMAL DUTIES). THE PROBLEM IS THAT THIS AMENDMENT COULD BE RULED OUT OF ORDER BECAUSE GIVEN ITS LENGTH IT SHOULD HAVE BEEN SUBMITTED IN WRITING BY THE END OF LAST WEEK. ALSO THIS AMENDMENT COULD BE REFUSED AS UNNECESSARY GIVEN THE CURRENT "AS A GENERAL RULE" AND "WHERE APPROPRIATE" QUALIFICATIONS. IF SUCH OCCURS, U.S. DELEGATE WILL ATTEMPT TO INSERT APPROPRIATE LANGUAGE IN REPORT UNCLASSIFIED

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INDICATING U.S. INTERPRETATION OF THIS LANGUAGE. IF CONFERENCE SHOULD REFUSE THIS PROPOSED AMENDMENT AND/OR SUCH LANGUAGE IN REPORT, U.S. DELEGATE PLANS TO REGISTER FIRM OBJECTION TO THIS POINT WHILE VOTING IN FAVOR OF RECOMMENDATION. IF DEPARTMENT DESIRES OTHER ACTION, PLEASE SEND INSTRUCTIONS. FRANKLY, U.S. DELEGATE IS OPTIMISTIC THAT PROPOSED CHANGE WILL BE ADOPTED AS A HELPFUL AMENDMENT. STILL, TO AVOID

NECESSITY OF LAST MINUTE AMENDMENTS, DEPARTMENT MAY
WISH TO GIVE U.S. DELEGATION DISCRETION TO WITHDRAW
THIS AMENDMENT ON THE BASIS OF ABOVE DISCUSSION.

5. WITH REGARD PARA 2 OF REFTEL B RECOMMENDATION
CONCERNING PARA 5(F) OF THE DRAFT UNESCO RECOMMENDATION

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REQUEST TO INSERT "WHEN APPROPRIATE" IS SUBJECT TO
SAME DIFFICULTIES DESCRIBED IN PARA 2 OF THIS CABLE.
DEPARTMENT WILL NOTE AS WELL THAT PARA 5(F) AS SHOWN
IN REFTEL B ALREADY INCLUDES THE "INTENDED FOR
PUBLICATION" QUALIFICATION. U.S. DELEGATE SUGGESTED
POSSIBILITY OF INSERTING WORD "COMMERCIAL" IN TEXT OF
PARA 5(F), BUT THIS SUGGESTION WAS OPPOSED AS
UNNECESSARY IN VIEW OF THE "WHERE APPROPRIATE"
QUALIFICATION FOUND IN THE OPENING LANGUAGE OF PARA 5.
AUSTRIAN DELEGATION ALSO OPPOSED THIS CHANGE BECAUSE
OF THE DIFFICULTY SUCH A QUALIFICATION WOULD HAVE IN
SOME EASTERN EUROPEAN COUNTRIES. IT WAS SUGGESTED IN

DRAFTING COMMITTEE THAT U.S. DELEGATION SUGGEST LANGUAGE IN REPORT MAKING CLEAR U.S. INTERPRETATION OF THIS PARAGRAPH. PROPOSED LANGUAGE FOLLOWS:

REPORT REGARDING 5(F) SUGGESTION OF USA DELEGATION: THE RECOMMENDATION SET FORTH IN PARAGRAPH 5(F) IS, OF COURSE, SUBJECT TO THE QUALIFICATIONS FOUND IN THE INTRODUCTORY LANGUAGE OF PARAGRAPH 5 WHICH SPECIFIES UNCLASSIFIED

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THAT A CONTRACT OR OTHER LEGAL INSTRUMENT GOVERNING RELATIONS BETWEEN A TRANSLATOR AND A USER SHOULD CONTAIN THESE RECOMMENDATIONS AS A GENERAL RULE, AND, IN THE CASE OF OTHER LEGAL INSTRUMENTS SUCH AS LEGISLATION REGULATING THE RIGHTS OF GOVERNMENTAL TRANSLATIONS, ONLY WHERE SUCH WOULD BE APPROPRIATE. THUS, IT MAY BE THAT NATIONAL LEGISLATION CONCERNING GOVERNMENTAL TRANSLATORS MAY NOT PERMIT AS SUGGESTED IN PARAGRAPH 5(F) SUCH TRANSLATORS THE RIGHT TO STIPULATE THAT NO CHANGE MAY BE MADE IN THE TEXT OF A TRANSLATION WITHOUT SEEKING THE PRIOR AGREEMENT OF THE TRANSLATOR. THE RECOMMENDATION CONTAINED IN THIS REPORT SHOULD NOT BE CONSTRUED AS A RECOMMENDATION THAT SUCH NATIONAL LEGISLATION BE CHANGED SINCE TRANSLATIONS PREPARED BY GOVERNMENTS MAY HAVE TO BE PUBLISHED WITHOUT SEEKING THE PRIOR AGREEMENT OF THE TRANSLATOR DUE TO AN EMERGENCY, THE DIFFICULTY IN A TRANSLATION UNDERTAKEN BY A LARGE TEAM OF TRANSLATORS OF PINPOINTING RESPONSIBILITY FOR A PARTICULAR PHRASE OR SENTENCE, OR OTHER LIKE REASONS.

U.S. DELEGATION BELIEVES THAT THIS SOLUTION SHOULD TAKE CARE OF CONCERNS EXPRESSED IN PARA 2 OF REFTEL B. HOWEVER, GIVEN STATEMENT IN PARA 2 OF REFTEL B THAT "USG NOT PREPARED TO AGREE THAT TRANSLATOR SHOULD HAVE RIGHT SPECIFIED IN PARA 5(F)", U.S. DELEGATION WOULD LIKE CONFIRMATION THAT THIS SOLUTION IS ACCEPTABLE TO USG IN VIEW OF ABOVE EXPLANATION.

6. WITH REGARD PARA 3 OF REFTEL B WHICH REQUESTS THAT THE WORD "REASONABLE" BE INSERTED IN PARA 5(G) TO "ASSURE THE TRANSLATOR AND HIS TRANSLATION REASONABLE PUBLICITY," U.S. DELEGATION BELIEVES THAT THIS ISSUE CAN BE DEALT WITH THROUGH FURTHER EXPLANATION IN THE REPORT. WHEN U.S. SUGGESTED THE INSERTION OF THE WORD "REASONABLE" IN TEXT OF 5(G), CHAIRMAN OF DRAFTING COMMITTEE REQUESTED U.S. DELEGATION TO WITHDRAW THIS SUGGESTION SINCE PARA 5(G) ALREADY CONTAINS THE WORD "PROPORTIONATELY" WHICH IS DESIGNED TO TREAT THIS PROBLEM. ALSO OPENING QUALIFICATIONS OF

"AS A GENERAL RULE" AND "WHERE APPROPRIATE" ARE
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ALSO APPLICABLE. THUS, CHAIRMAN SUGGESTED THAT THE
U.S. DELEGATION SUBMIT LANGUAGE FOR THE REPORT WHICH

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READS AS FOLLOWS:

REPORT REGARDING 5(G) SUGGESTION OF U.S. DELEGATION:
THE RECOMMENDATION CONTAINED IN PARAGRAPH 5(G)
SUGGESTS THAT TRANSLATORS AND THEIR TRANSLATIONS SHOULD
BE GIVEN PROPORTIONATELY THE KIND OF PUBLICITY THAT
AUTHORS ARE GENERALLY GIVEN. SUCH PUBLICITY SHOULD
BE A FUNCTION OF SUCH FACTORS AS THE TYPE OF WORK
BEING TRANSLATED, THE INTENDED AUDIENCE, AND THE NATURE

OF THE USE. THE TRANSLATION OF A MAJOR LITERARY OR SCIENTIFIC BOOK SHOULD RECEIVE PROMINENT RECOGNITION. HOWEVER, IT MAY NOT BE APPROPRIATE TO GIVE THE TRANSLATOR ANY PUBLICITY FOR THE TRANSLATION OF ONLY A WORD OR A PHRASE IN A TELEVISION BROADCAST.

7. AFTER DELIBERATION, WORKING COMMITTEE DECIDED TO RETAIN "INDEPENDENT TRANSLATOR" IN PLACE OF "SELF-EMPLOYED TRANSLATOR" IN PARA 2. U.S. DELEGATION OFFERED TO SUPPLY LANGUAGE FOR REPORT BUT WAS REFUSED BECAUSE SUCH DID NOT SEEM NECESSARY.
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8. PARA 3 OF RECOMMENDATION REPORTED BY DRAFTING COMMITTEE HAS OMITTED THE WORD "OTHER," I.E., "MEMBER STATES SHOULD ACCORD TO TRANSLATORS IN RESPECT OF THEIR TRANSLATIONS THE PROTECTION ACCORDED TO AUTHORS UNDER THE PROVISIONS OF THE INTERNATIONAL COPYRIGHT CONVENTIONS TO WHICH THEY ARE PARTY AND/OR UNDER THEIR NATIONAL LAWS, BUT WITHOUT PREJUDICE TO THE RIGHTS OF THE AUTHORS OF THE ORIGINAL WORKS."

9. U.S. DELEGATION BELIEVES THAT IF PROPOSED AMENDMENT TO PARA 5(D) IS ACCEPTED AND/OR SUITABLE LANGUAGE IN REPORT IS ACCEPTED FOR PARAS 5(D), 5(F), AND 5(G), THAT THIS RECOMMENDATION CONCERNING PROTECTION OF TRANSLATORS SHOULD BE SUPPORTED BY USG. U.S. DELEGATION WOULD APPRECIATE CONFIRMATION FROM DEPARTMENT BY UNCLASSIFIED IMMEDIATE TELEGRAM. IF NO SUCH TELEGRAM IS RECEIVED, U.S. DELEGATION INTENDS TO SUPPORT THIS RECOMMENDATION IF ACCEPTABLE AMENDMENTS AND REPORT LANGUAGE ARE ADOPTED IN FINAL SESSION ON JULY 7.
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